

PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNAVOIDABLY UNDER 37 CFR 1.137(a)	Docket Number (Optional)
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First Named Inventor: **Richardson**

Application Number: **09/955,778**

Filed: **09/18/2001**

Title: **PAINT BRUSH CLEANING ACCESSORY**

Art Unit: **3728**

Examiner: **LUONG**

Attention: Office of Petitions
Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

NOTE: If information or assistance is needed in completing this form, please contact
Petitions Information at (571) 272-3282.

The above-identified application became abandoned for failure to file a timely and proper reply to a notice or action by the United States Patent and Trademark Office. The date of abandonment is the day after the expiration date of the period set for reply in the Office notice or action plus any extensions of time actually obtained.

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION.

NOTE: A grantable petition requires the following items:

- (1) Petition fee.
- (2) Reply and/or issue fee.
- (3) Terminal disclaimer with disclaimer fee – required for all utility and plant applications filed before June 8, 1995, and for all design applications; and
- (4) Adequate showing of the cause of unavoidable delay.

1. Petition fee

☒ Small entity – fee \$ 250.00 (37 CFR 1.17(l)). Applicant claims small entity status.
See 37 CFR 1.27.

☐ Other than small entity – fee \$ _____ (37 CFR 1.17(l)).

2. Reply and/or fee

A The reply and/or fee to the above-noted Office action in the form of _____ (identify the type of reply):

☐ has been filed previously on _____.

☐ is enclosed herewith.

B The issue fee of \$ 700.00

☐ has been filed previously on _____.

☒ is enclosed herewith.

**PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED
UNAVOIDABLY UNDER 37 CFR 1.137(a)**

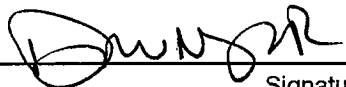
3. Terminal disclaimer with disclaimer fee

- ☒ Since this utility/plant application was filed on or after June 8, 1995, no terminal disclaimer is required.
- ☐ A terminal disclaimer (and disclaimer fee (37 CFR 1.20(d)) of \$ _____ for a small entity or \$ _____ for other than a small entity) disclaiming the required period of time is enclosed herewith (see PTO/SB/63).

4. An adequate showing of the cause of the delay, and that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition under 37 CFR 1.137(a) was unavoidable, is enclosed.

WARNING:

Petitioner/applicant is cautioned to avoid submitting personal information in documents filed in a patent application that may contribute to identity theft. Personal information such as social security numbers, bank account numbers, or credit card numbers (other than a check or credit card authorization form PTO-2038 submitted for payment purposes) is never required by the USPTO to support a petition or an application. If this type of personal information is included in documents submitted to the USPTO, petitioners/applicants should consider redacting such personal information from the documents before submitting them to the USPTO. Petitioner/applicant is advised that the record of a patent application is available to the public after publication of the application (unless a non-publication request in compliance with 37 CFR 1.213(a) is made in the application) or issuance of a patent. Furthermore, the record from an abandoned application may also be available to the public if the application is referenced in a published application or an issued patent (see 37 CFR 1.14). Checks and credit card authorization forms PTO-2038 submitted for payment purposes are not retained in the application file and therefore are not publicly available.



Signature

5/30/07

Date

David W. Nagle, Jr.

Typed or printed name

42,923

Registration Number, if applicable

Stites & Harbison, 400 W. Market Street, Suite 1800

Address

Louisville, KY 40202

Address

502-587-3400

Telephone Number

Enclosure ☒ Fee Payment☐ Reply☐ Terminal Disclaimer Form☒ Additional sheets containing statements establishing unavoidable delay☐**CERTIFICATE OF MAILING OR TRANSMISSION (37 CFR 1.8(a))**

I hereby certify that this correspondence is being:

☐ deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to **Mail Stop Petition**, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

☐ transmitted by facsimile on the date shown below to the United States Patent and Trademark Office at (571) 273-8300.

Date

Signature


Memorie Stofferahn

Typed or printed name of person signing certificate

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

**PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED
UNAVOIDABLY UNDER 37 CFR 1.137(a)**

NOTE: The following showing of the cause of unavoidable delay must be signed by all applicants or by any other party who is presenting statements concerning the cause of delay.



Signature

5/30/07

Date

DAVID W. NAGLE, JR.

Typed or printed name

42,922

Registration Number, if applicable

(In the space provided below, please explain in detail the reasons for the delay in filing a proper reply.)

Please see attached.

(Please attach additional sheets if additional space is needed.)

IN THE U.S. PATENT AND TRADEMARK OFFICE

U.S. Patent Application Serial No. 09/955,778

Title: PAINT BRUSH CLEANING ACCESSORY

Inventor: Janice Richardson

Filed: 09/18/01

Group Art Unit: 3728

PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNAVOIDABLY UNDER 37 CFR § 1.137(a)

Commissioner for Patents
Alexandria, Virginia 22313-1450

Sir:

This Petition is being filed pursuant to 37 CFR § 1.137(a) to revive an application for patent abandoned unavoidably, namely U.S. Patent Application Serial No. 09/955,778. U.S. Patent Application Serial No. 09/955,778 became abandoned for failure to pay the issue fee required by a NOTICE OF ALLOWANCE mailed 3/04/03.

In support of this Petition, and pursuant to 37 CFR §1.137(a), enclosed are the following:

- (1) Petition Fee of \$250.00
- (2) Issue Fee of \$700.00
- (3) A declaration of the inventor, Janice Richardson, describing the cause of the delay, and explaining that the entire delay in paying the issue fee until the filing of this Petition pursuant to 37 CFR § 1.137(a) was unavoidable.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "DWNAGLE". The signature is stylized with a large, loopy initial "D" and a long, sweeping horizontal stroke.

David W. Nagle, Jr., Reg. No. 42,923

STITES & HARBISON, PLLC

400 W. Market Street

Louisville, Kentucky 40202-3352

Phone (502) 587-3400

Facsimile (502) 587-6391

**DECLARATION OF JANICE RICHARDSON IN SUPPORT OF PETITION FOR
REVIVAL OF AN APPLICATION FOR PATENT ABANDONED
UNAVOIDABLY UNDER 37 CFR § 1.137(a)**

1. In 2001, I sought the services of Blue Grass New Product Marketing, 100 Mallard Creek Road, Suite 320, Louisville, KY 40207, to assist me in securing a patent for my invention, a paint brush cleaning accessory, and to market this invention to industry.

2. Blue Grass New Product Marketing recommended Joseph N. Breaux (Reg. No. 36,462) to provide advice and counsel with respect to investigating and pursuing patent protection for my invention. On September 4, 2001, with the help of Blue Grass New Product Marketing, I retained Mr. Breaux to prepare, file, and prosecute a utility patent application for my invention. As part of our agreement, Mr. Breaux promised to handle all correspondence with the U.S. Patent and Trademark Office, including filing all necessary responses to official communications from the U.S. Patent and Trademark Office.

3. On September 18, 2001, Joseph N. Breaux filed a patent application for my invention with the U.S. Patent and Trademark Office – U.S. Patent Application Serial No. 09/955,778, entitled PAINT BRUSH CLEANING ACCESSORY. In a letter dated September 18, 2001, Mr. Breaux confirmed that he had filed the patent application and instructed me to include “Patent Pending” on all correspondence and descriptions of my invention.

4. Fourteen months later, in a letter dated November 19, 2002, Mr. Breaux notified me of the rejection of the single claim in my patent application. Mr. Breaux informed me that such an initial rejection was not a substantial concern. He stated that he would prepare and file an appropriate response to the Office Action, and he again assured me that he would handle all necessary correspondence with the U.S. Patent and Trademark Office.

5. I did not hear from Mr. Breaux’s office again until June 2003. In a letter dated June 27, 2003, Linda Alleman (an assistant to Mr. Breaux) informed me that she had requested the Official Filing Receipt from the U.S. Patent and Trademark Office, and that she would forward a copy of such receipt to me. This was the last correspondence I received from Mr. Breaux’s office.

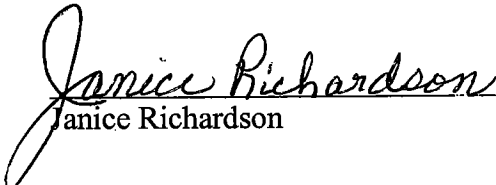
6. In March 2004, William David Kiesel of Roy, Kiesel, Keegan & DeNicola of Baton Rouge, Louisiana, notified me that Mr. Breaux was no longer licensed to practice law in the State of Louisiana and that he could not continue to represent me before the U.S. Patent and Trademark Office. Mr. Kiesel informed me that he was the court-appointed curator of my file, but had not reviewed my file. He offered to provide me a complete copy of the file upon request. I immediately requested my file, which was sent to me on April 5, 2004.

7. I immediately reviewed my file. Nothing in the file indicated that there were any outstanding actions that required response. Specifically, the file did not contain any information regarding the NOTICE OF ALLOWANCE or the NOTICE OF ABANDONMENT, which I subsequently discovered had been mailed to Mr. Breaux in 2003.

8. In May 2007, I contacted David Nagle, a registered patent attorney with Stites & Harbison, PLLC of Louisville, Kentucky. He promptly obtained a copy of the complete prosecution history from the U.S. Patent and Trademark Office. After reviewing the prosecution history, Mr. Nagle informed me that a NOTICE OF ALLOWANCE had been mailed from the U.S. Patent and Trademark Office on 3/04/03, and that a NOTICE OF ABANDONMENT had been mailed on 8/04/03. As stated above, Mr. Breaux's file did not contain either document or any indication that either document had been received by Mr. Breaux's office or responded to in any fashion. Furthermore, the request by Mr. Breaux's assistant for the Official Filing Receipt almost two years after the application was filed is unusual and suggests a possible breakdown in the mailing and receipt of communications regarding my patent application between the U.S. Patent and Trademark Office and Mr. Breaux's office.

9. Based on a review of the prosecution history, it appears that Mr. Breaux did not pay the issue fee due after the NOTICE OF ALLOWANCE was mailed on 3/04/03. Because of this, my application was abandoned. I was unavoidably unable to pay the issue fee until now because I was not aware that any action was necessary until Mr. Nagle reviewed the prosecution history of my application and informed me of the abandonment. Again, because the file I received from Mr. Breaux did not contain the NOTICE OF ALLOWANCE or the NOTICE OF ABANDONMENT, I was not aware that any further action was necessary to finish prosecuting my application.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.


Janice Richardson